United Nations A/C.3/57/SR.62

General Assembly
Fifty-seventh session

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Summary record of the 62nd meeting
Held at Headquarters, New York, on Friday, 2 May 2003, at 3 p.m.

Chairman: Mr. Wenaweser ..... (Liechtenstein)

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Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

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03-34445 (E)

The meeting was called to order at 3.20 p.m.

Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/57/769; A/C.3/57/L.70, L.90 and L.91)

Draft resolution A/C.3/57/L.90: Khmer Rouge trials

1. **The Chairman** announced that Brunei Darussalam, El Salvador, Greece and Timor-Leste had joined the sponsors of draft resolution A/C.3/57/L.90. A statement on its programme budget implications was contained in document A/C.3/57/L.91.

2. **Mr. Rostow** (United States of America) said that his delegation, although committed to the establishment of a credible tribunal, would have preferred to delay consideration of the draft resolution until after the Cambodian National Assembly elections in July 2003 and therefore dissociated itself therefrom. It acknowledged the efforts of the Secretary-General and the Government of Cambodia to reach agreement on the establishment of an extraordinary chamber that would bring to justice senior leaders of the Khmer Rouge and others who bore the greatest responsibility for the atrocities committed. Lastly, he noted the commitment displayed by the sponsors of General Assembly resolution 57/228, including Japan, France and Australia.

3. **Ms. Burnett** (United Kingdom) said that her Government had long been committed to the establishment of a Khmer Rouge tribunal under United Nations sponsorship. It welcomed the negotiations leading to the initialling of the draft agreement between the United Nations and the Government of Cambodia and the Government's decision to sponsor the draft resolution as an indication of its commitment to the success of the Extraordinary Chambers.

4. She noted the Secretary-General's concerns regarding the implementation of the draft agreement, including the tribunal's financing mechanism, the applicable financial and staff rules and regulations and the status of the internationally appointed judges and prosecutor; however, her delegation believed that those issues could be resolved with the good will of all concerned parties. She stressed the need for the Chambers to respect international standards of justice, fairness and due process and for the international community to pledge sufficient financial support for the full anticipated duration of the Chambers' existence prior to their establishment. If successful, the Chambers would represent an important step in promoting the rule of law and ending the climate of impunity in Cambodia.

5. Her delegation had therefore concluded that the draft agreement represented the best opportunity for the Cambodian people to move towards reconciliation and to bring to account those most responsible for the atrocities committed under the Khmer Rouge regime.

6. *Draft resolution A/C.3/57/L.90 was adopted.*

7. **Mr. Davidse** (Netherlands) said that he welcomed the balanced report of the Secretary-General (A/57/769) and the efforts of the United Nations negotiating team, which had done its best under the difficult mandate established in General Assembly resolution 57/228. However, his delegation would have preferred further negotiations between the United Nations and the Cambodian Government in order to ensure that international standards of justice were upheld.

8. While the current text of the draft agreement was an improvement over previous versions, he endorsed the Secretary-General's comments regarding the issues of judicial and prosecutorial independence, applicable law, decision-making processes and witness protection and noted the Legal Counsel's concern at the fact that the Chambers' international judges would constitute a minority and at the lack of clarity regarding the United Nations status of the tribunal's officials. It was unfortunate that the Secretary-General's proposals regarding the structure, organization and composition of the Chambers and those designed to strengthen the role of the international element at the stages of investigation and prosecution (paras. 16 and 22 of the report) had been rejected.

9. General Assembly resolution 57/228, adopted on 18 December 2002, had set a bad precedent by failing to fully guarantee that international standards of justice, fairness and due process would be met. His delegation continued to have serious concerns regarding the path that would be followed in the future and stressed that the Chambers' functioning would need to be closely monitored by the international

community; in that regard, he drew attention to paragraph 51 of the report, which stated that if the Government were later to change the structure and organization of the Extraordinary Chambers so that they failed to conform to the Agreement, then the obligation of the United Nations to provide assistance under the draft agreement would cease to apply.

10. **Ms. Stanley** (Ireland) said that while her delegation appreciated the efforts of all parties to the negotiations, it shared the concerns expressed in the report of the Secretary-General; strict adherence to international standards of justice would be vital to the success of the Extraordinary Chambers.

11. **Mr. Barriga** (Liechtenstein) said that his Government was a strong advocate of international cooperation in combating impunity, as shown by its support for the establishment of the International Criminal Court and the Special Court for Sierra Leone, and it hoped that the draft agreement would promote international justice and foster peace and reconciliation in Cambodia. However, he regretted that the Extraordinary Chambers would not be composed of a majority of international judges and that it did not contain more references to relevant international standards or clearer provisions for the protection of witnesses. He respected the Cambodian Government's wish to engage in an exercise of national reconciliation; however, the credibility of the United Nations was also at stake. In the interests of international justice and, first and foremost, of the people of Cambodia, he therefore welcomed the future involvement of the General Assembly through the reports of the Secretary-General and hoped that the Khmer Rouge trials would meet the minimum international standards for such an endeavour.

12. **Ms. Eueström** (Sweden), speaking on behalf of the Nordic countries, said that she welcomed the draft agreement between the United Nations and the Cambodian Government. However, the Nordic countries remained convinced that financing through assessed contributions would have facilitated prompt implementation of the draft agreement; in that regard, the Secretary-General had referred to the lessons learned from the Special Court for Sierra Leone in paragraph 76 of his report. She called on Member States to make voluntary contributions without delay so that the Extraordinary Chambers could become operational as soon as possible.

13. Although the Chambers would be a national court, trials must be conducted in an impartial, efficient and independent manner in accordance with international standards of justice, fairness and due process; United Nations assistance would be withdrawn unless the draft agreement was implemented in full. Lastly, she stressed the importance of the Secretary-General's reports to the General Assembly pursuant to paragraph 4 of the draft resolution. Those reports should be ongoing and should focus not only on implementation, but also on any problems that could lead to the withdrawal of United Nations cooperation under article 28 of the draft agreement.

14. **Ms. Groux** (Switzerland) expressed her delegation's appreciation to the Secretary-General and the parties to the draft resolution, particularly Japan, France and Cambodia. Lasting peace could not be achieved without assuming responsibility for the past; the draft agreement should help strengthen the rule of law and combat impunity in Cambodia. However, it was important to clarify the statement in article 28 that the United Nations reserved the right to cease to provide assistance should the Government cause the Extraordinary Chambers to function in a manner that did not conform with the terms of the draft agreement; specific criteria should be established as guidelines for predictable, transparent relations between the parties concerned. She noted that the General Assembly remained seized of the matter and looked forward to the Secretary-General's reports on implementation of the draft resolution.

15. **Mr. Much** (Germany) said that he was sensitive to the horror of the atrocities committed by the Khmer Rouge. It was time for the international community to act if it wished to seize the opportunity to ensure that at least some of those responsible were brought to justice. His delegation had therefore joined the consensus on the draft resolution, despite persistent doubts regarding the guarantees of comprehensive judicial standards and the overly complicated procedures set forth in articles 4 and 7 of the draft agreement. Whether justice was done in a credible manner would depend on the political will of the parties; he trusted that the Government of Cambodia would follow the example of the Government of Sierra Leone in that regard. In the light of article 28 of the draft agreement, on withdrawal of cooperation, he requested that the report of the Secretary-General, called for in paragraph 4 of the draft resolution, should include an assessment of the

political environment within which the Extraordinary Chambers would be established.

16. **Mr. Simancas** (Mexico) said that his delegation had joined the consensus in the belief that the draft resolution was the outcome of efforts to strengthen justice, combat impunity and promote reconciliation in Cambodia and to bring to justice the persons presumed responsible for the crimes committed during the period of Democratic Kampuchea. He was confident that the political will and cooperation of the Government of Cambodia and the involvement of the United Nations would overcome the limitations inherent in the draft agreement and ensure its full implementation, and he welcomed the ongoing monitoring of that process under paragraph 4 of the draft resolution.

17. **Mr. Ouch** (Cambodia) thanked the Committee for its adoption of the draft resolution, which marked a historic moment and a step towards justice for the people of Cambodia.

18. **Mr. Haraguchi** (Japan) said that the international community had a great stake in ensuring the success of the Extraordinary Chambers. As a sponsor of the draft resolution, his delegation hoped that Member States — including those which, despite their reservations, had not opposed its adoption by consensus — would provide financial and other support for implementation of the draft agreement.

19. **Mr. Florent** (France) said that the draft resolution addressed many of the concerns expressed regarding the parties' political will to implement the draft agreement in good faith and the guarantees contained therein. He requested that the draft agreement, annexed to the draft resolution in the English version, should be added in the French version as well, particularly as a French translation already existed and was annexed to the French version of the report of the Secretary-General (A/57/769).

The meeting rose at 3.50 p.m.

A/C.3/57/SR.63

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United Nations A/C.3/57/SR.63

General Assembly
Fifty-seventh session

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Third Committee

Summary record of the 63rd meeting
Held at Headquarters, New York, on Friday, 6 June 2003, at 11.20 a.m.

Chairman: Mr. Wenaweser ..... (Liechtenstein)

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03-38729 (E)

The meeting was called to order at 11.20 a.m.

Election of the Chairman for the fifty-eighth session of the General Assembly

1. **The Chairman** recalled that, pursuant to General Assembly resolution 56/509 of 8 July 2002, a number of changes had been made to the rules of procedure of the General Assembly and that rule 99 now called for all the Main Committees to elect a Chairman at least three months before the opening of the session.

2. **Mr. Belinga-Eboutou** (Cameroon) had been nominated for election to the office of Chairman for the fifty-eighth session. In the absence of further nominations and in accordance with rule 103 of the rules of procedure, he would take it that the Committee wished to elect Mr. Belinga-Eboutou (Cameroon) Chairman.

3. *Mr. Belinga-Eboutou (Cameroon) was elected Chairman by acclamation.*

Completion of the Committee's work

4. **The Chairman** declared that the Committee had completed its work for the fifty-seventh session.

The meeting rose at 11.25 a.m.